

Message Text

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ACTION SNM-05

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TO SECSTATE WASHDC 3499

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E.O. 11652: N/A
TAGS: SNAR, PP
SUBJECT: NARCOTICS LAWS - PAPUA NEW GUINEA

REF: STATE 170187

1. FOLLOWING IS SUMMARY OF PAPUA NEW GUINEAN NARCOTICS
LAWS REQUESTED REFTEL.

2. (Q)(A) THERE IS NO DIFFERENTIATION MADE IN THE LAW FOR
POSSESSION OF VARIOUS NARCOTICS. PENALTY FOR ALL POSSESSION
IS FROM THREE MONTHS TO TWO YEARS. (B) THERE IS NO QUALIFYING
AMOUNT. (C) PENALTIES FOR POSSESSION ARE THE SAME AS FOR
OTHER NARCOTICS OFFENSES. HOWEVER, NARCOTICS OFFENSES UNDER
THE DANGEROUS DRUGS ACT OF 1952, ARE PUNISHABLE ON SUMMARY
CONVICTION AND, IN SUCH CASES, THE MAGISTRATE MAY IMPOSE A
FINE IF THE MINIMUM PENALTY SEEMS TOO SEVERE. JUDGES HAVE
RESORTED TO FINES FOR POSSESSION OF SMALL AMOUNTS OF
CANNABIS FOR PERSONAL USE

(2)(A) DANGEROUS DRUGS ACT CONSOLIDATES ALL CONTROLLED
SUBSTANCES INTO A GENERAL TRAFFICKING OFFENSE. HOWEVER,
OTHER LEGISLATION CAN COME INTO PLAY. ALTHOUGH AIMED
AT PERSONS LICENSED TO IMPORT DANGEROUS DRUGS, THE
POISONS AND DANGEROUS SUBSTANCES ORDINANCE PROVIDES FOR
THREE MONTHS TO TWO YEAR SENTENCES FOR ILLEGAL IMPORTA-
TION AND ONE HUNDRED DOLLAR FINE OR IMPRISONMENT

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FOR THREE MONTHS FOR OTHER PRESCRIBED OFFENSES SUCH AS
IMPROPER STORAGE OR UNAUTHORIZED SALE. OBVIOUSLY, THIS
ORDINANCE WILL NOT AFFECT THE TRAVELING AMERICAN.
CUSTOMS LAWS ARE MUCH MORE SEVERE. PERSONS PROSECUTED
FOR IMPORTING OR EXPORTING DANGEROUS DRUGS ILLEGALLY ARE
SUBJECT TO IMPRISONMENT OF UP TO FOUR YEARS AND
A FINE OF UP TO K10,000 (APPROX. US\$14,000). NONE OF THE

LAWS OF PNG STIPULATE QUANTITIES A PERSON HAS TO HAVE TO BE CONSIDERED A TRAFFICKER RATHER THAN A MERE POSSESSOR.

(B) MINIMUM AND MAXIMUM PENALTIES ARE COVERED ABOVE.

AFTER BEING CHARGED, THE ACCUSED MAY BE REMANDED FOR UP TO 14 DAYS AND THIS MAY BE EXTENDED FOR ADDITIONAL 14 DAY PERIODS. WHILE THERE IS NO PAROLE IN PNG, CONDITIONAL LIBERTY MAY BE GRANTED. BOTH THE POLICE AND THE COURTS MAY SET BAIL AND RELEASE DETAINEES ON BAIL OR ON THEIR OWN RECOGNIZANCE. AFTER CONVICTION SOME ARE RELEASED ON BOND, NORMALLY AFTER COMPLETION OF PART OF THE SENTENCE BUT PRIOR TO SERVING FULL SENTENCE.

(C) NO AMOUNT IS STIPULATED IN THE LAW TO DISTINGUISH BETWEEN TRAFFICKING AND POSSESSION. (D) UNDER THE CRIMINAL CODE, CONSPIRACY OR AIDING AND ABETTING AN ILLEGAL ACT IS AN OFFENSE. THE CODE DOES NOT SPECIFICALLY ADDRESS TRAFFICKING IN NARCOTICS.

(E)(A) CULTIVATION OF CANNABIS, COCA AND OPIUM IS PROHIBITED BY LAW. THERE ARE NO DETAILS. PENALTIES ARE COVERED ABOVE. (B) NOT APPLICABLE. (C) THERE ARE PENALTIES FOR ELABORATING NARCOTIC SUBSTANCES FROM CANNABIS, COCA AND OPIUM POPPIES. THERE IS NO DESCRIPTION. THE LAW SIMPLY STATES THAT "A PERSON SHALL NOT KNOWINGLY MAKE A DANGEROUS DRUG OR ... BE IN POSSESSION OF OR CONVEY A ... PLANT OR PART OF A PLANT FROM WHICH A DANGEROUS DRUG CAN BE MADE."

(4)(A) THERE IS NO OFFENSE RELATING DIRECTLY TO UNCLASSIFIED

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FINANCING CULTIVATION, ELABORATION OR TRAFFICKING IN NARCOTICS. HOWEVER, PERSONS DOING SO COULD BE TRIED FOR CONSPIRACY OR AIDING AND ABETTING UNLAWFUL ACTS UNDER THE CRIMINAL CODE. (B) LAWS GOVERNING CURRENCY CONTROLS, FOREIGN BANK ACCOUNTS, ETC., ARE EXTREMELY COMPLEX. DETAILS WILL BE PROVIDED IN SEPTTEL.

(5)(A) TECHNICALLY, THERE IS NO PERIOD OF INVESTIGATIVE DETENTION IN THE LAW. HOWEVER, ONCE CHARGED, THE ACCUSED MAY BE HELD FOR 14 DAY PERIODS AS NOTED IN

(2)(B) ABOVE. PEOPLE NORMALLY ARE CHARGED IMMEDIATELY, AND TRIED VERY PROMPTLY. IF TRIAL IS DELAYED, MOST ARE RELEASED ON BAIL. DETAINEES MAY MAKE PHONE CALLS, INCLUDING TO CONSULAR OFFICERS. PAPUA NEW GUINEA ABIDES BY GENEVA CONVENTION AND PERMITS CONSULAR ACCESS.

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(B) PRE-TRIAL DETENTION USUALLY IS NIL. (C)(1) TRIAL PROCESS IS USUALLY UNDER A DAY. CHIEF JUSTICE TELLS US "ONE OR TWO HAVE EXTENDED OVER TWO OR THREE YUARING DAYS". (11) REVIEW/CONFIRMATION PROCEEDINGS HAVE BEEN FEW. OFFENSES ARE TRIED IN MAGISTRATES COURTS. THEY HAVE 14 DAYS IN WHICH TO APPEAL AND APPEALS ARE HEARD WITHIN A MONTH BY A NATIONAL COURT JUDGE SITTING ALONE. (III) FINAL APPEAL WOULD GO TO SUPREME COURT, WHICH CONSISTS OF NATIONAL COURT JUDGES SITTING TOGETHER. SUPREME COURT SITS ONCE A MONTH AND STATUTE REQUIRES THAT IT HEAR APPEALS WITHIN 40 DAYS. THUS, CASES NORMALLY ARE HEARD AT NEXT SITTING OF THE SUPREME COURT. HOWEVER, IF APPEAL GOES UP FROM NATIONAL COURT IMMEDIATELY PRECEDING SUPREME COURT SESSION, OR IF DEFENSE NOT READY, CASE COULD BE DELAYED TO NEXT SITTING. (D) PUBLIC SOLICITOR PROVIDES LEGAL COUNSEL AT NO COST TO DEFENDANTS. HOWEVER, DEFENDENTS OBVIOUSLY ABLE TO PAY ARE EXPECTED TO PAY A REDUCED FEE. (E) SEE (2)(B) ABOVE FOR PROVISION OF CONDITIONAL LIBERTY. (F) MINOR OFFENDERS POSSESSING SMALL AMOUNTS OF NARCOTICS ARE ASKED TO LEAVE THE COUNTRY, NORMALLY WITHOUT FORMAL DEPORTATION PROCEEDINGS. A RECENT CASE INVOLVED A YOUNG AMERICAN TEACHER WHO REPORTEDLY WAS GROWING POT FOR HIS OWN USE. HE WAS ASKED TO LEAVE.

3. THE FOLLOWING IS OFFERED TO PUT THE LOCAL NARCOTICS
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SCENE INTO PERSPECTIVE. THERE HAVE BEEN VERY FEW PROSECUTIONS FOR DRUG OFFENSES, PROBABLY NONE DEALING WITH ADDICTION TO HARD DRUGS. NO MANUFACTURE OR COMMERCIAL CULTIVATION OF DRUGS IS BELIEVED TO BE TAKING PLACE ALTHOUGH SMALL AMOUNTS OF CANNABIS ARE GROWN BY PRIVATE USERS. LOCAL PEOPLE ARE NOT INTO DRUGS WITH THE EXCEPTION OF VERY LITTLE POT SMOKING,

WIDESPREAD CHEWING OF BETEL NUT AND, IN SOME HIGHLANDS
AREAS, USE OF SOMETHING CAUSING "MUSHROOM MADNESS".
SOME EXPATRIATE HEROIN ADDICTS WERE IN PNG BUT ALL ARE
BELIEVED TO HAVE LEFT. SOME MEDICS ARE BELIEVED TO BE
USING PETHEDINE. HOWEVER, APART FROM A GREAT POTENTIAL
AS AN AREA FOR TRANSSHIPMENT OF DRUGS, PAPUA NEW
GUINEA IS RELATIVELY FREE OF DRUG-RELATED PROBLEMS.
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